

## Comments:

**Question 1: Do you agree with our proposals for sufficient evidence that a rental company's operations are based on equipment hire as opposed to equipment use that requires a licence? If not, what would you suggest as alternative evidence?:**

I agree with your proposal.

**Question 2: Do you agree that users who have held a valid channel 69 licence at any time during the 12 months prior to 2 February 2009 and can justify why it lapsed should be eligible for funding, subject to the other conditions outlined above? If not, what other time period would you propose and why?:**

1 year seems a reasonable time for lapsed licenses although freelance work is intermittent and unpredictable. It is tempting to reduce out goings when not using the equipment.

**Question 3: Do you agree that equipment purchased by eligible PMSE users between 2 February and 30 June 2009 should be eligible for funding, subject to providing evidence of the compelling reasons for making the purchase? Is there other evidence we should consider acceptable?:**

Any equipment purchased on channel 69 until the new frequencies become available to use should be compensated for. This equipment is expensive and decisions to buy new equipment are never taken lightly.

**Question 4: Do you agree with our proposal that channel 69 equipment purchased after 30 June 2009 should not be eligible for funding? If not, what are the circumstances in which you think such equipment should be eligible?:**

I do not agree please see answer 3. Until the new frequencies are open for use purchases on channel 69 may need to be made. Rental equipment is very expensive and would incur a loss of profitability and times are already hard. Unless of course compensation is available for renting equipment until 2012. The Manufacturers will not survive until 2012 to build new equipment if they make no sales until that time.

**Question 5: Do you agree with our proposal to consider on a case by case basis representations from PMSE users of channels 31-37 and 61-68 who feel there are special circumstances that in their view may entitle them to a different period of notice than others? If not, please state your reasons.:**

My attention has been brought to a statement in the recent Government's Digital Britain Review. It states:

"The Government Is committed to the timely release of 800 spectrum and will work with Ofcom to understand and meet the technical challenges. It has already endorsed Ofcom's proposal setting out its plans to clear channels 61, 62 and 69. The Government will facilitate

this re-planning and will meet the costs incurred by broadcasters and PMSE users as a result of these changes."

I interpret this as INCLUDING Channels 61 and 62 in the replacement funding scheme and does not suggest a case by case examination. I also interpret this as meeting ALL the costs incurred as a result of these changes, with no provisos. Ofcom must further explain why they are choosing to re-interpret or even ignore this statement.

**Question 6: Do you agree with our approach to calculating funding based on the residual value of the equipment for the period during which a PMSE user could reasonably have expected to have access to channel 69? If not, can you set out an alternative approach which meets the overall objective of promoting the efficient use of spectrum?:**

I would dispute your definition of 'end of useful life'. Professional equipment, if correctly maintained, can last as long as it is legal to use it. There is no definite 'sell by' date and manufacturers will testify that some of their original Channel 69 equipment is still in everyday use. We maintain that any arbitrary life cycle applied by Ofcom is unacceptable.

**Question 7: Do you agree with our assessment that PMSE users could reasonably have expected to have access to channel 69 until 2018, but not beyond this date? If not, what time period would you consider reasonable, and why? In this context, please note, the fact that some equipment may be expected to operate beyond 2018 is not, on its own, a sufficient reason to reconsider that date.:**

I am informed, the 2018 date was set for re-examining the progress of the Digital Dividend and was not set as a shut down date for the use of Channel 69, as now claimed. We do not accept the precondition that 'the fact that some equipment may be expected to operate beyond 2018 is not; on its own, a sufficient reason to reconsider that date'. We are arguing quite simply that if the equipment is serviceable and legal, it is still capable of providing the user with income through rental fees as part of their profession, and these fees are not dependant on the age of the equipment. The removal of the frequencies means loss of income and, potentially, considerable personal expenditure to replace what is still serviceable equipment.

**Question 8: Do you have receipts for your equipment? What else do you consider we should accept as evidence of the date and price of purchase and proof of ownership? :**

I agree that Proof of Ownership is necessary. I am not sure if my accountant still has all the receipts .We are only obliged to hold receipts and financial records for 6 years. I would need to talk to my agent about other proofs available. Copies of carnets possibly. Equipment lists for insurance etc.

**Question 9: Do you think we should make assumptions about the date of purchase of equipment for which where there is no evidence? If so, what assumptions do you think we should make?:**

I disputes Ofcom's assessment of useful life therefore such assumptions are not relevant. However, I recognize the onus be on the claimant to prove legal ownership before any agreed cut-off date which again we maintain should be when Channel 38 is made fully available.

**Question 10: Do you agree with the factors we propose to consider when designing the methodology for determining the funding payable for each piece of eligible equipment? Are there any additional factors we should consider?:**

I am informed that 5.18 will take into account all our reservations on your funding proposals.

**Question 11: Do you agree with our proposal determine a set value and lifecycle for each equipment type, in the interests of simplifying the application and funding process? If not, what would you suggest? Do you think there is scope to group similar equipment into larger sub-groups to simplify the process?:**

I do not agree with your proposals. In 5.22, Ofcom states that a blanket tariff would be simplest to administer but then suggest that this would be unsatisfactory. I would recommend this approach. I also propose that we simplify the calculations further by accepting the principle that every Channel 69 user will need new Channel 38 equipment.

It should be born in mind that no second-hand Channel 38 equipment is available and new replacement is the only option. This cost should be FULLY funded by the scheme. In 5.23, Ofcom claims that they desire simplicity in the application of the funding. A full replacement policy must simplify all the concerns raised with no need to determine age or condition, only requiring a decision on suitable replacements. We cannot understand how this is 'imprudent use of public funds' since these funds are being generated by the sale of Channel 69 to higher bidders under the guise of European harmonization of frequencies, and current legitimate PMSE users are being effectively evicted. As stated in the Digital Britain Review, Government has already AGREED to meet the costs incurred by the PMSE Users and Broadcasters. They do not say that they will only meet PART of the costs nor is it implied that they will only SHARE the costs.

**Question 12: Do you agree that a rate card approach would be a practical way of calculating the funding for each item of eligible equipment? If not, how do you consider the amount of funding for each item of equipment should be calculated?:**

A rate card will be desirable in calculating replacement funding. The Manufacturers could provide a list of Channel 69 and other affected equipment that they have produced over the years and indicate which current model would be considered an equivalent, given that some models will no longer be manufactured. This, together with the costing for new units, would form the basis of replacement models offered to eligible users. Complex aging tables are a retrograde step and we would not support this.

**Question 13: Do you agree with our proposal not to distinguish between equipment by type of user? If not, what would be your preferred approach?:**

I agree with your suggestion not to distinguish by type. Eligible users should receive a comparable grade of equipment, equivalent to their existing Channel 69 equipment from the manufacturer's Current range.

**Question 14: What type(s) of equipment do you own (e.g. wireless microphone, in-ear monitor) which uses channel 69? For each equipment type:(a)How many pieces of equipment do you own?(b) Can this equipment be modified (or re-tuned) to function in channel 38? If so, what would be the average cost of this modification? (c)What was the average purchase price (excluding VAT)? (d)on average, how many years would you normally keep this equipment in operation?(e)Does the useful life of equipment vary with the amount and method of use? If so, in what way?(f)What is the average age of the equipment?(g)Would you normally sell or dispose of the equipment at the end of its useful life? If sold, how much on average would you expect to receive for it? If disposed of, how would you normally dispose of it? How much does this disposal normally cost?:**

\* Please also see the AMPS reply which I believe to be accurate.

a) 8 wireless microphones, 4 in-ear monitor.

b) Not sure if these models can be modified or cost.

c) 8 wireless microphones £2400 approx, 4 in-ear monitor. £400 approx

d) All this equipment is built to very high standards, so as long as it works, and thats a long time.

My equipment is used only by me, or under my supervision, it is regularly serviced, is expensive to replace so is cherished!

e) See (d)

f) Some 14 years, some 1 year.

g) As long as it works and can be used I use it, or until someone like Ofcom change?s the playing field.

**Question 15: How would a decision to clear PMSE from channel 69 on 1 January 2012 affect you? What could we and the Government do to provide for an orderly migration in these circumstances?:**

There is an acceptable overlap of at least 2 years when ch 69 and ch 38 is available. Also that Ch 38 is available all over the country. The manufacturers can accommodate with building sufficient Ch 38 equipment available.

**Question 16: Do you believe we should facilitate early migration to channel 38 of those PMSE users for which this is convenient? If so, can you quantify the benefits? Would you take advantage of this option if it were available? :**

I Agree with the AMPS answer to this question.

"AMPS agree with the possible part solution to the instant changeover problem on the 1st January 2012 to allow eligible users to purchase Channel 38 equipment in advance of available nationwide coverage and migrate early, and this may be possible for fixed site

indoor users. But our particular sector of Film and Television production demands that we have extremely flexible nationwide outdoor access to spectrum without notice, thus any restrictions like those that will be imposed on Channel 38, 39 and 40 are unworkable, and thus Channel 69 remains our only option. What we might be prepared to do, to ease the potential migration backlog for new equipment, is to order in advance and effectively stockpile the new equipment until it becomes useable on the same basis as Channel 69, sometime in 2012. This scheme would have to be fully funded by Government since no user would be willing to invest any money in equipment that he could not use immediately. It would make any possible conversions impractical since the old equipment will be in constant use. Moreover, we maintain that, in response to 6.7, it can only be in the public interest to keep users and business operating and not let any fail through lack of sufficient funding or equipment."

**Question 17: Do you agree with our proposal to allow each PMSE user to submit only one application for funding and to reserve the right to require the surrender of equipment for which funding has been received? If not, how do you suggest we ensure items are only claimed for on one occasion? :**

I Agree with the AMPS answer to this question.

AMPS agree that there should be only one application per eligible user and this should list all the equipment he wishes to exchange for funding. This should include all frequency dependant auxiliary equipment such as antennae, RF distribution amplifiers and receiver racks with built-in RF distribution amplifiers. Further, we would like to suggest a voucher scheme instead of cash payments. The idea is that an eligible claimant would be issued with a voucher for replacement equipment only redeemable for this purpose through the manufacturers and main distributors. This might go some way to preventing fraudulent claims. The surrender of old Channel 69 equipment, once it becomes redundant and unusable, would be necessary, and Ofcom's suggestion of financial penalties if not surrendered is a possible solution and could prevent multiple claims against the same equipment.

**Question 18: What are your views on the three options for new licensing arrangements for channel 38 identified by JFMG? Do you prefer any different approaches?:**

\*Option 3 please.

**Question 19: Do you agree with our proposal to include frequencies from channels 39 and 40 in the shared licence arrangements for channel 38?:**

I Agree with the AMPS answer to this question.

AMPS are very unclear on this question. We note that the maps supplied show many restrictions on both indoor and outdoor use. As we read the situation from 3.7 to 3.9 and Annex 7, it does not seem possible that this can successfully mirror the utility of Channel 69 prior to 2012 as stated, since our sector requires outdoor nationwide access to spectrum. However, if the plan is to provide further licensable frequencies in these adjacent channels post-2012, even on a geographically restricted basis, we would welcome this idea. This question does, at least, acknowledge our concerns that no alternative frequencies are yet available and reinforces our view that the 30th June 2009 cut-off date for replacement

funding eligibility is illogical until this is condition is fulfilled and replacement Channel 38 to Channel 40 equipment begins to be manufactured with some certainty.